

***Remarks***

Reconsideration of this Application is respectfully requested. Upon entry of the foregoing amendments, claims 1-20 will be pending in this application. Claims 1, 7, and 11 are independent claims.

By this Amendment, Applicant amends claims 1, 7, and 11. Unless otherwise indicated, the claims amendments are for purposes of clarity and not to overcome any other rejection in the Official Action. These changes are believed to introduce no new matter, and their entry is respectfully requested.

**Claim Rejections Under 35 U.S.C. § 102**

Claims 1, 5, and 11 stand rejected under 35 U.S.C. Sec. 102(b) as being anticipated by Talaro. Applicant traverses these rejections because the cited reference fails to disclose, teach, or suggest all of the features of the claimed invention.

Claim 1 as amended is directed to a base station for a mobile radio system, which is arranged to **proactively** (i.e., at regular or random intervals, or according to some other predetermined scheme) reallocate the existing control channel as a traffic channel and one of the other traffic channels as a new control channel otherwise than in response to interference on the control channel (please see Applicant's specification paragraph 0023).

Claim 7 includes the step of “**proactively** re-allocating the control channel as a traffic channel and allocating one of the other traffic channels as a new control channel.”

Claim 11 includes the steps of “**proactively** selecting an existing traffic channel to become a new control channel according to a predetermined process” and “proactively

allocating the selected traffic channel as the new control channel and allocating the current control channel as a traffic channel”.

By contrast, Talaro does not disclose **proactively** re-allocating the control channel from one channel to another single channel. It discloses only that in the event of interference (i.e., **reactively**), control is shifted to multiple channels. At column 3, lines 48 on Talaro states that:

“The invention is based on the idea that the control channel of a congested base station or a base station affected by interference in a radio system is distributed temporarily **to several channels.....**”

and subsequently that:

“This new method for allocating channels in a radio system is achieved by means of a method according to the invention which is characterised by the steps of allocating traffic channels for control channel use so as to distribute the control channel operation to a **greater number** of channels;”

Applicant claims, by contrast, require that the traffic channel is proactively reallocated to “one of the other traffic channels” (i.e., otherwise than in response to interference), as recited in claims 1 and 11.

Secondly, Talaro also fails to disclose an original control channel being reallocated as a traffic channel. In Talaro, in the event of interference control is temporarily shifted to several channels until the interference has ended. However, there is not a permanent shift or reallocation of the control channel nor.

Finally, Talarino fails to disclose a system in which the control channel is shifted proactively, as recited in claims 1, 7, and 11. It discloses only that shifting the control channel is initiated when interference occurs (i.e., reactively). In the event of interference, only then is control shifted, to multiple channels. Applicant claims as amended by contrast specifically require that the existing control channel is shifted to a new channel **proactively** (see Applicant's specification paragraph 0023), and that the former control channel is reallocated as a traffic channel, periodically or non-periodically, for example in a round robin process, and "otherwise and in response to interference on the control channel". It is not intended to rule out that a system embodying applicant's invention may also be configured to shift the control channel in response to interference, but whether it does so or not, in accordance with applicant's invention it also intermittently reallocates the existing control channel even when interference does not occur.

If a future Office Action rejects claims 1 and 11, the Applicant respectfully request that the Official Action specifically point out in the cited reference a method and/or system configured to **proactively** re-allocate the control channel as a traffic channel and allocate one of the other traffic channels as a new control channel, as recited in independent claims 1 and 11.

It is respectfully pointed out that anticipation can only be established by a single prior art reference that discloses each and every element of the claimed invention. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440 (Fed. Cir. 1984). Therefore, since the cited reference fails to recite each and every element of Applicant's invention as required in claims 1 and 11, claims 1 and 11 are not anticipated by the cited reference and are therefore allowable.

Claim 5 depends from claim 1 and is therefore allowable at least for the reasons claim 1 is allowable, and for the specific features recited therein.

**Claim Rejections Under 35 U.S.C. § 103**

Claims 3, 4, 7, 9, and 10 stand rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over Talaro in view of Japanese patent 407107539 to Hagio. Claim 6 stands rejected under 35 U.S.C. Sec. 103(a) as unpatentable over Talaro in view of US patent 6,115,365 to Newberg. Finally, claims 2, 8, and 12-20 stand rejected under 35 U.S.C. Sec. 103(a) as being unpatentable over Talaro in view of Hagio further in view of US patent application 20002/0122408 to Mullins. Applicant respectfully traverse these rejections because the cited references fails to disclosure, teach, or suggest all of the features of the claimed invention.

First, claims 2-4 and 6 respectively depend from claim 1 and claims 12-20 respectively depend from claim 11. Therefore, claims 2-4, 6, and 12-20 are therefore also allowable at least for the reasons claims 1 and 11 are allowable and for the specific limitations recited therein, for those limitations are non-obvious too.

To establish a *prima facie* case of obviousness, all of the claimed limitations must be taught or suggested by the prior art and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, MPEP Section 2142.

Applicant respectfully submit that the combination of references fails to teach or suggest all of the claimed features. For example, as noted above, Talaro fails to disclose, teach, or suggest a system in which the control channel is reallocated

**proactively**, as recited in claim 7. It discloses only that reallocating the control channel is initiated in response to interference. Several radio communication networks may operate in a common environment, and may create problems of unfair access and interference. Sometimes an overlap between channels of independent networks cannot be avoided. In particular, a base station must usually transmit continuously on a respective control channel thereby effecting use of that channel at nearby stations in other networks. Another station that attempts to share the control channel for any purpose will generally cause interference and neither station may be able to operate effectively.

In the system and method of the present invention, the control channel is shifted proactively. Allocation of a channel as the control channel changes non-temporarily, typically in a round robin or random fashion, and there is no designated permanent control channel. In the Talaro system, shifting of the control channel is initiated reactively (i.e., only when interference occurs). An objective of Talaro is to increase control channel capacity during congestion periods on the control channel, whereas applicant's system and method shifts the control channel to another single traffic channel, and does so proactively (i.e. not only in response to interference).

The Official Action states that "Hagio discloses that the control channel is changed periodically among the repeaters.....". **Again however** Hagio discloses a change of control channel only in response to interference, rather than proactively. Applicant claims explicitly require.....control channel changes **proactively** (i.e., otherwise than response to interference on the control channel).

Talaro also discloses shifting of control to multiple channels, in response to interference. In this regard Talaro points away from shifting the control channel from

one channel to another single channel in the Talarmino system, total traffic capacity will be reduced as a result of a change to multiple traffic channels, which is not the case as in the applicant's system.

Finally, Talarmino does not teach reallocating the original control channel as a new traffic channel. Further, in the Talarmino system when interference occurs which causes allocation of the traffic channels as control channels, this is temporary and then subsequently the system reverts to the original control channel.

Accordingly, Applicant respectfully submit that claim 7 is not obvious in view of Talarmino in view of Hagio and respectfully request that the rejection of claim 7 under 35 U.S.C. § 103(a) be withdrawn. Claims 8-10 depend from claim 7 and are therefore also allowable at least for the reasons claim 7 is allowable, and for the specific features recited therein.

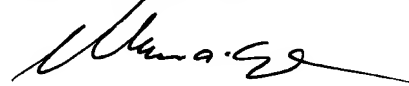
***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: March 22, 2004

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